

EXHIBIT

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Wyoming's Law Firm

Patrick J. Murphy
P.O. Box 10700
159 N. Wolcott St. Suite 400 (82601)
Casper, WY 82602
pmurphy@wpdn.net

July 15, 2024

VIA E-MAIL ONLY

Paula Colbath
pcolbath@loeb.com
Alex Inman
ainman@loeb.com

Marc Gottlieb
msg@orllp.legal

Marc Feinstein
mfeinstein@omm.com

Re: Deposition Scheduling and Plaintiff's concern Defendants are attempting to block discovery with depositions similar to the WeChat communications among Defendants' leadership and key representatives "in China."

Dear Paula, Marc and Marc:

I write in reply to Paula Colbath's July 11, 2024 letter (which was sent in response to my July 8, 2024 email regarding deposition scheduling). Below is BCB's updated deposition schedule based on the feedback and availability I received from Paula in her 7/11/24 response letter.

- **Erick Rengifo** (MineOne, Terra, Bit Origin) **August 2, 2024** via Zoom from Defense counsel's office in New York.
- **Chong Wang** (MineOne, Terra, Bit Origin) **August 6, 2024** via Zoom
- **Ran Cheng** (Bitmain) **August 9, 2024** via Zoom
- **Huaili Zhang** (MineOne, Bit Origin) **August 19, 2024** via Zoom
- **Micree Zhan** (Bitmain) **August 20, 2024** via Zoom
- **Xiaping Cao** (Bit Origin) **August 20, 2024** via Zoom
- **Jiaming Li** (MineOne, Terra Crypto, Bit Origin) **August 23, 2024** via Zoom
- Defendants' Expert Witness(es) [reserved] **September 4-6, 2024**
- Rule 30(b)(6) witness of Bitmain Georgia, **September 8, 2024** (topics for examination to be provided)
- **"Easen"** (Bitmain) **September 9, 2024** via Zoom
- **"Jason"** (Bitmain) **September 9, 2024** via Zoom



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- **Zhou Feng** (Bitmain) **September 10, 2024** via Zoom
- **Nuolin Lin** (Bitmain) **September 10, 2024** via Zoom
- **Cho Zhu** (MineOne / Terra Crypto) **September 11, 2024** via Zoom
- **Ziyao Shao** (MineOne / Terra Crypto / Bit Origin) **September 11, 2024** via Zoom
- **Henry Li** (MineOne / Terra Crypto / Bit Origin) **September 12, 2024** via Zoom
- **"Mark"** (MineOne / Terra Crypto / Bit Origin) **September 12, 2024** via Zoom
- Rule 30(b)(6) witness of MineOne Wyoming **September 13, 2024** (topics for examination to be provided)
- **Zihan Zhang** (MineOne) **September 15, 2024** via Zoom

If you have any scheduling matters involving the above, I am available to confer on Friday morning this week with Defense counsel regarding deposition scheduling. Beyond that, and given our tight timelines and discovery cut-off deadline, I will assume you are in agreement (or do not have major scheduling conflicts) with the schedule above. For sure, I will work to accommodate Defendants' deposition scheduling, too.

In reading your response letter, I am increasingly concerned by the actions of Defendants. Namely, their actions to withhold production under the excuse company representatives are "in China." I am concerned this argument – this rationale, or more accurately, this excuse – is being used *again* to stall and thwart discovery, now with depositions of key representatives for Defendants MineOne and Bit Origin and possibly Bitmain.

Please refer to BCB's 7/10/24 *Motion for Sanctions*. We know **Chong Wang, Huaili Zhang, Cho Zhu, Ziyao Shao, Zihan Zhang, and Xiaping Cao**, among others, are key representatives, employees, directors, and/or officers of Defendant MineOne Wyoming and/or Bit Origin, and we know **Ran Cheng, Micree Zhan, Easen, Jason, Zhou Feng, and Nuolin Lin** are key representatives, employees, directors, and/or officers of Defendant Bitmain Georgia and/or its parent companies, known collectively as Bitmain.

All of the Bitmain individuals above should have highly relevant and specific knowledge regarding BCB's tortious interference claims against Bitmain Georgia.



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Also, please also refer to Judge Rankin's 5/20/24 *Order* where His Honor ordered that Defendant MineOne have its representatives come to the United States in response to Defendant MineOne's argument that Defendants could not produce WeChat messages because its representatives are "in China." Did any of Defendants' representatives come to the United States?

I am concerned how this seems to be playing out. My client needs to depose key representatives of MineOne, Bit Origin and Bitmain, but now, in your letter, it seems you are saying Defendants' counsel will not be making key representatives available for deposition by Zoom. Is that what you are saying, Paula? As you know, Zoom depositions can be done anywhere in the world. And our federal district court expressly allows and encourages parties to take depositions by Zoom. Just ask Sean Larson.

What is most concerning is Defendants are advancing the same line of argument that led to Judge Rankin's *Order* and the Plaintiff's *Motion for Sanctions*. Defendants are "in China," and for such and such reason, they will not produce highly relevant communications, and now, you say these key individuals are "not in your control," and thus, my client has to go through the impossibly laborious and expensive Hague Convention process where there is not time or resources to do that before the discovery cutoff deadline. All of this, because, as you say, these key representatives of Defendants' companies are "third parties," which is untrue and a misrepresentation of the facts and evidence before the Court.

We know these individuals are key representatives, employees, officers and directors of Defendants (or the parent company of Defendant Bitmain Georgia). When MineOne produced Haku Du's WeChat messages, you never showed me – or even told me – whether or not Ms. Du came to the United States to produce the WeChat messages. We doubt she did. Why? Because she never needed to come to the United States in the first place to produce WeChat messages. It seems it was just an excuse tendered to the Court to justify not producing something that could easily be produced. The same is true here for the requested depositions.

Nearly all of these individuals in BCB's list for depositions were disclosed in BCB's Rule 26 Disclosures and BCB's First Set of Supplemental Rule 26 Disclosures. We've known for a long time these individuals have been highly relevant to discovery, and they



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remain highly relevant to BCB's claims. It has not been possible to depose these individuals until now.

In response to the items in your letter, Paula:

- **Defendants' Deposition Scheduling:** I see your deposition list of individuals but you did not provide any proposed dates. We sent our schedule and proposed dates to you in good faith so that Defendants have options for scheduling depositions in August and September – just like Plaintiff – before the upcoming September 17th discovery cut-off date. Please let us know *which dates* for the individuals you have listed so we can check schedules and be proactive with scheduling.

A. **Dr. Erick Rengifo** is a professor at Fordham University and foreseeably is already enjoying his summer 'vacation.' I'm skeptical of Dr. Rengifo's one-month vacation excuse as a reason he is not available for this deposition (that was originally scheduled in January 2024 before Defendants began withholding evidence, and the expert report designation deadline was first delayed to July 15, and now to July 22.). Dr. Rengifo, like all the individuals listed in Plaintiff's deposition schedule list, can be deposed via Zoom, wherever he is in the world, or by Zoom at defense counsels' offices in New York, Los Angeles, Beijing, Hong Kong, Shanghai, or Singapore. If he would like to come to Cheyenne, we can conduct the deposition in person, but we do not require that.

In light of what you said about Dr. Rengifo's desire for a one-month vacation from August 4th to August 30th, we can confirm **August 2, 2024 for Dr. Rengifo's deposition.** The Deposition will begin **via Zoom at 9:00 AM MDT.**

B. We've updated the **Jiaming Li** deposition date from August 28th to August 23rd to accommodate your Labor Day vacation plans. We are not going to delay Jiaming Li's deposition on account of some unexplained, unsupported, and/or irrelevant passport issue. We are quite sure the issue you raised regarding his passport and the "official business" is connected to the Presidential Divestment Order, which has nothing to do with Jiaming Li being available for a Zoom deposition on August 23, 2024. Loeb and Loeb has an office in Beijing where Jiaming Li resides. The individuals residing "in China" can easily come to Defendants' counsels' offices in



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Beijing and Hong Kong (where Chong Wang and Huaili Zhang reside) and sit for Zoom depositions.

Further, Plaintiff trusts that defense counsel and your wealthy, well-connected Chinese foreign national clients will have no problem obtaining any approvals required from the Chinese Communist Party to sit for depositions in China over Zoom. You will note we have added to the deposition scheduling **Xiaping Cao, PhD**, a Bit Origin Director, who according to filings with the Securities and Exchange Committee ("SEC"), is the chairman of the Nomination Committee and the Finance Committee of Bit Origin. Dr. Cao's biography also states he is a member of the Major Administrative Decision-making Advisory Committee at the People's Government of Guangdong Province, which establishes standards for the Guangdong Provincial Government. In other words, Dr. Cao is/was an official advisor to the Chinese Government. He also writes academic papers extolling the benefits and financial returns of state-owned enterprises (i.e. Chinese government owned companies). We don't think you will have any issues getting the appropriate approvals for depositions by Zoom for individuals in China.

- C. We understand you have Rotary meetings, Paula. We have updated our deposition schedule to accommodate your Rotary meetings. We are not going to make other one-off accommodations as Defendants have 16 attorneys – three national and three local law firms – representing them, and certainly among so many attorneys you can cover deposition scheduling if one or two attorneys cannot be in attendance due to personal scheduling conflicts. As you know, Plaintiff has only two attorneys—so, if Scott Murray and I cannot attend, we cannot possibly have a deposition. Compare this to Defendants having 16 capable attorneys.
- D. Plaintiff has provided both voluminous and targeted documents in its disclosures and discovery production to show Chong Wang is a co-founder of MineOne, one of three primary operators, and was listed as the "Ultimate Beneficial Owner" of the North Range site. There is also voluminous evidence showing **Huaili Zhang** was a key representative and **employee** of MineOne. There is also voluminous evidence showing the others on the deposition schedule are key representatives (employees, officers, directors, and former employees, former officers and former directors) of



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MineOne, Bit Origin, and Bitmain. For additional information and citations, please see BCB's *Motion for Sanctions* (and exhibits).

We look forward to working with you and finalizing the deposition schedule for Plaintiff and Defendants.

Best regards,

A handwritten signature in blue ink, appearing to read 'Pat Murphy', written over the printed name 'Patrick Murphy'.

Patrick Murphy